

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROSE ARMIJO,

Plaintiff,

vs.

No. _____

WALGREEN COMPANY,

Defendant.

**NOTICE OF REMOVAL TO THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TO: UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

COMES NOW Defendant, Walgreen Co. (improperly designated in the Complaint as Walgreen Company), by and through its attorneys of record, Butt Thornton & Baehr PC, and as grounds for removal to this Court, state as follows:

1. On or about June 4, 2010, a Complaint for Damages for Injury was filed in the Second Judicial District Court, County of Bernalillo, State of New Mexico. The case was docketed as Cause No. CV 201006785. The Plaintiff is Rose Armijo, an individual who, on information and belief, is a resident of Bernalillo County, New Mexico, and a citizen of the State of New Mexico.

2. The Complaint names Walgreen Co. as Defendant. Walgreen Co. is a foreign corporation incorporated in a state other than New Mexico and with its principle place of business in the State of Illinois.

3. Walgreen Co. was served with a copy of the Complaint a Summons on June 7, 2010.

4. Complete diversity of citizenship exists between Plaintiffs, Rose Armijo, and Defendant, Walgreen Co.

5. The Complaint, pursuant to the New Mexico Rules of Civil Procedure, contains no allegations for damages in a specific monetary amount. The Complaint, however, alleges that Plaintiff was injured on October 23, 2007. The Complaint seeks damages for “serious personal injury, physical and emotional pain and suffering, loss of earnings, and loss of enjoyment of life, and incurred medical and related expenses.” Complaint, ¶ 8. Although the Defendant does not admit that Plaintiff has been damaged in any amount by any act or omission of Defendant, Plaintiff has made a pre-suit demand in excess of \$75,000 to settle this case. Based on Plaintiff’s settlement demand and the damage allegations in the Complaint, the amount in controversy exceeds \$75,000.00.

6. The Complaint is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. §1332, and which is removable by Walgreen Co., under the provisions of 28 U.S.C. §1441 in that:

- (a) The matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs, and
- (b) The matter in controversy is between citizens of different states.

7. In accordance with D.N.M. LR-Civ. 81.1, copies of all process and pleadings served upon Walgreen Co. in Bernalillo County Cause No. CV 201006785 are being filed with this Notice.

8. This Notice of Removal is filed with this Court within thirty (30) days after service of Plaintiff's Complaint, which is the first pleading naming Walgreen Co.

9. Walgreen Co., immediately upon the filing of this Notice of Removal, gave written notice of the filing to Plaintiff as required by 28 U.S.C. §1446(D) and filed a copy of this Notice of Removal with the Clerk of the Second Judicial District Court, County of Bernalillo, State of New Mexico, the Court from which this action is removed.

10. This Notice of Removal is signed pursuant to Fed.R.Civ.P. 11.

WHEREFORE, Walgreen Co. prays that the above-entitled action be removed from the Second Judicial District Court, County of Bernalillo, State of New Mexico, to this United States District Court for the District of New Mexico.

BUTT THORNTON & BAEHR PC

/s/ Alfred L. Green, Jr.

Alfred L. Green, Jr.

Attorneys for Defendant

P.O. Box 3170

Albuquerque, NM 87190

Telephone: (505) 884-0777

I HEREBY CERTIFY that on the 29th day of June, 2010, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Ronald Segel
rsegel@sutinfirm.com

Timothy J. Adler
TJA@sutinfirm.com

AND I FURTHER CERTIFY that on such date I served the foregoing on the following non-CM/ECF participants in the manner indicated:

Via first class mail, postage prepaid addressed as follows:

Ronald Segel
Timothy J. Adler
Sutin Thayer & Browne
P.O. Box 1945
Albuquerque, NM 87103

/s/ Alfred L. Green, Jr.
Alfred L. Green, Jr.